

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**LAWRENCE BOYLE and GERALD
BOYLE,**

Plaintiffs,

v.

**CITY OF PHILADELPHIA, its Officials,
Agents, Employees and Assigns,
Defendant.**

CIVIL ACTION

NO. 17-262

ORDER

AND NOW, this 16th day of February, 2018, upon consideration of Defendants' (sic) Motion to Dismiss Plaintiffs' Amended Complaint and the accompanying Memorandum of Law (Document No. 8, filed July 19, 2017) and Plaintiffs' Memorandum of Law in Support of the Response of Plaintiffs in Opposition to the Motion to Dismiss of Defendants (Document No. 9, filed August 4, 2017), for the reasons set forth in the accompanying Memorandum dated February 16, 2017, **IT IS ORDERED** that Defendant's Motion to Dismiss is **GRANTED IN PART** and **DENIED IN PART**, as follows:

1. That part of Defendant's Motion to Dismiss which seeks to dismiss claims by Lawrence Boyle on standing grounds is **DENIED WITHOUT PREJUDICE** to the City's right to raise the issues presented in the Motion after the completion of discovery by motion for summary judgment and/or at trial;
2. That part of Defendant's Motion to Dismiss which seeks to dismiss plaintiffs' claims under 42 U.S.C. § 2000(e), *et seq.* ("Title VII") is **DENIED WITHOUT PREJUDICE** to the City's right to raise the issues presented in the Motion after the completion of discovery by motion for summary judgment and/or at trial;

3. By agreement of the parties, that part of Defendant's Motion to Dismiss which seeks to dismiss plaintiffs' claims under 42 U.S.C. § 1981 is **GRANTED WITH PREJUDICE**;
4. That part of Defendant's Motion to Dismiss which seeks to dismiss plaintiff Lawrence Boyle's claims under 42 U.S.C. § 1983 is **GRANTED WITH PREJUDICE** on statute of limitations grounds;
5. That part of Defendant's Motion to Dismiss which seeks to dismiss plaintiff Gerald Boyle's claims under 42 U.S.C. § 1983 is **DENIED WITHOUT PREJUDICE** to the City's right to raise the issues presented in the Motion after the completion of discovery by motion for summary judgment and/or at trial.

IT IS FURTHER ORDERED that a Preliminary Pretrial Conference will be scheduled in due course. Discovery may proceed in the interim.

BY THE COURT:

/s/ **Hon. Jan E. DuBois**

DuBOIS, JAN E., J.